

REMARKS

The present amendment is submitted in response to the Office Action mailed February 14, 2005 where the Examiner has rejected claims 1-3 and 6-38. By the present amendment, claims 1, 20 and 21 have been amended. Accordingly, claims 1-3 and 6-38 are pending in the present application. Reconsideration and allowance of the pending claims in view of the amendments and the following remarks are respectfully requested.

A. Response to Provisional Double Patenting Rejections

In paragraphs 5-7 of the Office Action, the Examiner provisionally rejected claims 1 and 20 under the non-statutory double patenting doctrine. Applicant respectfully requests that the Examiner hold the rejection in abeyance until the pending claims have been put in final form, and are in a condition for allowance. For example, Applicant believes that the current claim amendments to claims 1, 20 overcome the provisional rejection raised by the Examiner.

B. Response to U.S.C. §102 Rejections

In paragraphs 8-9 of the Office Action, the Examiner rejected independent claims 1 and 20 under 35 USC 102(e) as being anticipated by US Patent No. 6,622,017 ("Hoffman"). Applicant respectfully submits that Hoffman fails to disclose all the limitations of the amended claims. Each of the independent claims is addressed below.

1. Independent Claim 1

Claim 1 has been amended to more clearly express that the claimed method provides that the received dynamic instruction sets are unsolicited by the user. That is the dynamic instruction sets are downloaded into the handset without a request and/or selection from the handset/user. In contrast, Hoffman discloses that subscriber must select one or more features from those available through the network. In Hoffman, after receiving the request, the executable program corresponding to the selected feature is then retrieved and downloaded to the handset.

2. Independent Claim 20

Claim 20 has been amended to more clearly express that the claimed device comprises, among other things, an airlink interface for establishing an air interface communication with a wireless service provider to receive user-unsolicited dynamic instruction sets. In contrast, program modules are downloaded in the Hoffman device only after a specific request for a specific feature. Applicant amends claim 20 to distinguish that the claimed device receives unsolicited downloads from a wireless service provider.

C. Conclusion

Claim 38 is the third independent claim, and no changes are made to this claim as no rejection has been set forth in the Office Action. The applicant believes the pending claims are patentably distinguishable over the cited reference. For all the foregoing reasons, an early allowance of claims 1-3 and 6-38 pending in the present application is respectfully requested.

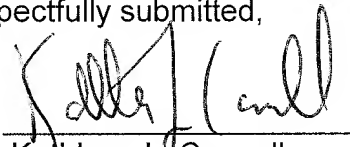
If necessary, applicant requests under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Should the Examiner believe that prosecution of this application might be expedited by further discussion of the issues, she is invited to telephone the attorney for Applicant at the telephone number listed below.

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Respectfully submitted,

By:


Kathleen L. Connell
Attorney for Applicant
Registration No. 45,344

KYOCERA WIRELESS CORP.
10300 Campus Point Drive
San Diego, California 92121
Telephone: (858) 882-2169
Facsimile: (619) 882-2485